

**HOT TOPICS
FOR ATTORNEY AD LITEMS IN
DOMESTIC RELATION CASES**


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10:30am-12:00pm

...AND THE HOT TOPICS ARE...

oThe Home Visit.


oWhat's the deal with Stills?

oSocial Networking.



THE HOME VISIT

- o Arkansas Supreme Court Administrative Order No. 15 section 5.
 - a. "An Attorney ad litem shall conduct an independent investigation...
 - b. An attorney ad litem shall determine the best interest of a child by considering such custody criteria as:
 - o (4) *Other Relevant Information* regarding the child...and regarding the *home*..."



THE HOME VISIT

- Who?
- What?
- When?
- Why?
- How?
- Examples and real life experiences.



WHO?

- The Buddy system.
 - Always take someone with you on a home visit.
 - Keeps you safe;
 - Keeps you out of trouble;
 - Could allow you the benefit of calling your buddy as a witness (Warning : Ethical issues to consider);
 - Gives you someone to visit with/distract the parent/person of the home you are visiting so you can do your job.
- Who do you visit?
 - Parents/Guardians;
 - Family of child;
 - Neighbors.



WHAT?

- Comprehensive tour of the home.
 - Kitchen/laundry room.
 - Refrigerator (Booze, Food, Marijuana);
 - Cupboards;
 - Sink;
 - Under the sink;
 - Trash.
 - Bathroom.
 - How many?
 - Under the sink;
 - Drawers;
 - Bath Tub (B.O.D.?).
 - Bedrooms.
 - How many?
 - How many persons per room?



WHAT? (CONTINUED)

- The Mecca of all contraband;
- What type of clothes are in the closets/on the floor? (The Cohabitator);
- Firearms (safety);
- The child's bedroom (age of child)
- Living Room
 - Ashtrays;
 - Appropriate entertainment (Magazines, DVD's, Blu-ray, video games).
- Garage/Exterior of Home
 - Trash
 - Backyard
 - Attic



WHAT? (CONTINUED)

- Basement;
- Pets;
- Sheds;
- Storage buildings.
- Have no fear...
 - Take pictures;
 - Look around;
 - Ask questions;
 - Observe the child in its natural habitat;
- What to do if you are denied access to the home?
 - Call the party's attorney;
 - Make strong threats of negative recommendation?;



WHAT? (CONTINUED)

- What to do if no one is home?
 - Look around?
 - Look in windows?
 - Go through trash?
 - Urinate in the yard?
 - Sit in the drive way and wait? (Give em' a call)



WHEN?

- Make sure you know the parties' daily schedules.
 - Children home v. Children not home
- What are the issues? (drugs, cohabitation, pornography, buggery, mopery, dirty home, meth lab....)
- Time frame of the litigation.
- Judicial Expectations/requirments.



WHERE?

- Not just Mom's & Dad's home.
 - Where does the child spend his/her time?
 - Neighbors;
 - Grandparents;
 - Boyfriend/Girlfriend;



WHY?

- Best interest of Child;
- Verify allegations;
- Judicial Expectations;
- Increase your fee;
- Party expectations;
- Thorough investigation;
- Parent/child interaction in the home;
- Location of home;
- Size of home;
- Family composition;
- Audience input.



HOW?

- By appointment or by surprise.
- When in doubt surpri



HOW?

BY APPOINTMENT

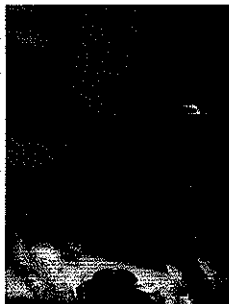
- Generally never;
- Boring;
- Distance;
- No serious allegations of misconduct at home;
- Economic considerations;
- Crazy schedules of parties

BY SURPRISE

- Generally always;
- Exciting;
- Catch em' in the act;
- Find other serious issues or misconduct;
- See the "real" environment of the home not the "perfect" home.



EXAMPLES AND REAL LIFE EXPERIENCES



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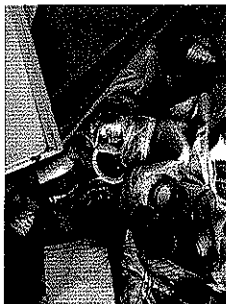
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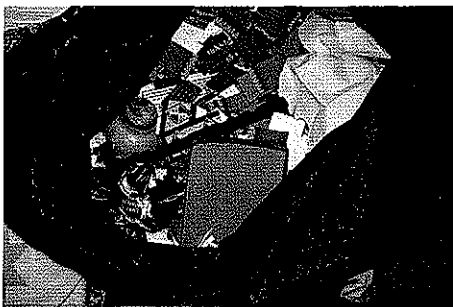
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WHAT'S THE DEAL WITH STILLS?

- o "But the presumption is, at its core, the establishment of a legal burden of proof to be enforced by the circuit courts in deciding relocation disputes. It is not a "right" that may be claimed by one party or another, nor can it be altered or waived by a party."



STILLS (CONTINUED)

- o In its bench ruling, the court stated:

For custody to be changed, the party seeking a change of custody must prove that there has been a material change in circumstances since the entry of the last order touching on custody to the extent that it is impossible for the custodial parent to continue in that role when you look at it from the standpoint of the best interests of the children.

While worded differently, this standard articulated by the court does not materially vary in meaning from the standard established by this court, which places the burden on the non-custodial parent to prove a material change of circumstances such that a modification of the custody decree is in the best interest of the child. *Stehle v. Zimmerrebnner*, 375 Ark. 446, 291 S.W.3d 573 (2009).



STILLS (CONTINUED)



SOCIAL NETWORKING

- My Space
- Twitter
- Facebook
- Linkd In
- Profiles
 - Public v. Private
 - Other side is a "friend"